



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	15

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 MGS from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 11/5/01 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: SEE ATTACHED

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-13, 25-23

However, 6 CLAIMS WITH DRAWN: 14-22

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because SEE ATTACHED

5. ☒ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. SEE ATTACHED

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

Art Unit: 1644

The proposed amendment would raise issues of new matter. Dependent claims 3 and 30 would only require that at least one, not all, of the Ag binding regions comprise an sFv. The examiner reads the original disclosure as only describing the case in which all such regions are sFv.

The arguments regarding the linkers are unconvincing. The disclosure has given no hint that selection of appropriate markers is unpredictable as to which will be operative, and applicant has presented no claim limited to any preferred, exemplified linker. Applicant's claims are not commensurate in scope with the arguments.

The request for reconsideration of 1/5/00 refers to literature not of record and not supplied. In any case discussion of these is tantamount to the introduction of new exhibits which applicant could have earlier presented. Further, consideration of these would require more than a cursory review, which is all that is required after final.

Any inquiry concerning this communication should be directed to D. Saunders at telephone number (703) 308-3976.

Typed 1/29/01 DAS

*David G. Saunders*  
DAVID SAUNDERS  
PRIMARY EXAMINER  
ART UNIT 182-1644